



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
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NOV 25 2013

REPLY TO THE ATTENTION OF:
E-19J

Timothy O'Brien
U.S. Department of Transportation
U.S. Coast Guard
Docket Management Facility (M-30)
West Building Ground Floor, Room W12-140
1200 New Jersey Avenue S.E.
Washington, D.C. 20590-0001

RE: Tiered Final Environmental Impact Statement: U.S. Coast Guard Rulemaking for Dry Cargo Residue Discharges in the Great Lakes – CEQ No. 20130306

Dear Mr. O'Brien:

The U.S. Environmental Protection Agency has reviewed the referenced Tiered Final Environmental Impact Statement (FEIS), which was prepared by the U.S. Coast Guard (USCG). Our review is pursuant to our authorities under the National Environmental Policy Act (NEPA), Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

USCG proposes to issue a new rule regulating the operation of U.S. and foreign vessels carrying bulk dry cargo such as limestone, iron ore, and coal on U.S. waters of the Great Lakes. The Tier 1 DEIS (DEIS) and FEIS were produced to support this new rule. The proposed new rule would continue to allow non-hazardous and non-toxic discharges of dry cargo residue (DCR) in limited areas of the Great Lakes. Under the preferred alternative (Alternative 2), vessel owners would be responsible for minimizing DCR discharges using best management practices. Under the preferred alternative, vessel owners and operators will be required to maintain a DCR management plan aboard each vessel, and produce the management plan to USCG upon request.

EPA provided comments to the DEIS in our letter dated October 25, 2012. Based on our review of the DEIS, EPA had assigned a rating of "*Lack of Objections*" to the document. This rating was based on issues relating to 2013 Vessel General Permits (VGP), recoverability of DCR, recordkeeping and training, mapping, and impacts to aquatic food webs. We provided detailed comments outlining our issues and recommendations.

The FEIS addressed our DEIS comments concerning recoverability of DCR, recordkeeping and training, and impacts to aquatic food webs. USCG responded to our comments relating to recovery of residual DCR on vessels by requesting vessel owners initiate cleanup and placement of residual DCR in the appropriate cargo hold. USCG held discussions with numerous stakeholders and solicited best management practices for management of DCR, and outlined

possible training for vessel owners, vessel crew members, and port employees. The FEIS also included a thorough discussion of impacts to food webs in the Great Lakes, concluding that work is ongoing with multiple stakeholders with respect to addressing impacts to food webs.

We reiterate several of our DEIS comments concerning VGP, and mapping, for the reasons stated below.

2013 Vessel General Permit

On Line 1268 and on page XXVIII, the FEIS should acknowledge that the VGP has been issued and will take effect in December, 2013. While most of the language will not need to be changed, the FEIS should make this acknowledgement and provide corrections as necessary.

In reference to line 1286, the current VGP does not except [*sic*] DCR from the requirements under the VGP as long as vessels comply with the USCG regulation. Rather, DCR is not a discharge covered under the VGP, as garbage was not subject to the Part 122.3 exclusion from the National Pollutant Discharge Elimination System (NPDES) program. Thus, garbage (e.g. DCR) has always been subject to NPDES permits issued by the approved state NPDES programs or by EPA in states where EPA has not delegated permitting authority. The USCG indicates that EPA could remove the exception in the VGP to allow coverage; that statement is inaccurate. EPA cannot issue a NPDES permit for a discharge within a state once the state has an approved program, thus USCG cannot include DCR in the VGP in those states. For states where EPA is the permitting authority, EPA could issue an NPDES permit to cover the discharge, but there is no expectation that the national VGP would be modified for DCR coverage.

Line 1344 presents the correct message as expressed above, but line 1286 was not updated similarly with respect to exceptions for DCR under the VGP. The FEIS should be updated to present an accurate position on the issue in both places.

Mapping

We reiterate that the FEIS should provide an explanation of how distances required for discharges of various DCR were derived. Additionally, the FEIS did not provide analyses of historic bathymetric maps to identify all of the historic spawning reef sites in all of the Great Lakes, nor were such maps provided in the associated appendices. Assessing potential impacts to spawning reefs by DCR cannot be completed without first identifying the locations of the spawning reefs.

EPA is available to discuss these comments to the FEIS at your convenience. Please feel free to contact me or Mike Sedlacek of my staff at 312-886-1765 or by email at sedlacek.michael@epa.gov.

Sincerely,



for Kenneth A. Westlake, Chief
NEPA Implementation Section
Office of Enforcement and Compliance Assurance